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**Attorneys for
GOOGLE LLC**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO**

JANE DOE, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

HEY FAVOR, INC., FULLSTORY, INC.,
META PLATFORM, INC., TIKTOK, INC.,
and BYTEDANCE INC.

Defendants.

Case No.: 3:23-cv-00059-WHO

**GOODRX DEFENDANT GOOGLE
LLC'S OPPOSITION TO META
PLATFORMS, INC.'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

CLASS ACTION

I. INTRODUCTION

Google LLC (“Google”) files this opposition to Defendant Meta Platforms, Inc. (“Meta”)’s Administrative Motion to Consider Whether Cases Should be Related, filed on February 17, 2023 (ECF No. 44). Google opposes Meta’s request to relate *Jane Doe v. GoodRx Holdings, Inc. et al.*, Case No. 3:23-cv-00501-LB (“*GoodRx*”), in which Google is a defendant, to the above-captioned action, *Jane Doe v. Hey Favor, Inc. et al.*, Case No. 3:23-cv-00059-WHO (“*Favor*”), to which Google is not a party.

II. LEGAL STANDARD

Pursuant to Northern District of California Local Rule 3-12(a), “[a]n action is related to another when: (1) The actions concern substantially the same parties, property, transaction or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” L.R. 3-12(a).

III. ARGUMENT

Google opposes Meta’s motion to relate *GoodRx* to *Favor*. *GoodRx* and *Favor* do not “concern substantially the same parties, property, transaction, or event,” and, due to the foregoing, keeping the cases separate would not cause any duplication of labor, expense, or conflicting results.

A. *GoodRx* and *Favor* Concern Substantially Different Parties, Property, Transaction, and Event

First, the two actions involve different parties. Meta is the *sole* common party across both cases. None of the four other defendants in *Favor*—Hey Favor, Inc. (“*Favor*”); FullStory, Inc. (“*FullStory*”); TikTok, Inc.; and ByteDance Inc. (together with TikTok, Inc., “*TikTok*”) — are parties to *GoodRx*. Similarly, none of the other three defendants in *GoodRx*—Google; GoodRx Holdings, Inc. (“*GoodRx*”); and Criteo Corp. (“*Criteo*”) —are parties to *Favor*. See *Adobe Sys. Inc. v. A&S Electronics*, 2016 WL 9105173, at *3 (N.D. Cal. 2016) (declining to relate two cases in which only one party was the same); *Target Therapeutics, Inc. v. SciMed Life Systems, Inc.*, 1996 WL 241692, at *13 (N.D. Cal. May 2, 1996), *rev’d on other grounds by*

1 *Target Therapeutics, Inc. v. Cordis Endovascular Systems, Inc.*, 113 F.3d 1256 (Fed. Cir. 1997)
 2 (denying motion to relate because “[w]hile some of the parties in the instant case are the same . .
 3 . the other action involves parties not present here.”); *cf. Par Pharmaceutical, Inc. v. Takeda*
 4 *Pharmaceutical Co., Ltd.*, 2013 WL 12221673, at *1 (N.D. Cal. Oct. 28, 2013) (granting motion
 5 to relate where the cases were all “actions brought by or against Takeda Pharmaceutical
 6 Company, Limited, Takeda Pharmaceuticals U.S.A., Inc., and Takeda Pharmaceuticals
 7 America, Inc.”). In addition, the putative class Plaintiff seeks to certify in *Favor* consists of
 8 *Favor* users. In contrast, the putative class in *GoodRx* consists of *GoodRx* users, of which there
 9 is no allegation of overlap with *Favor* users.

10 *Second*, the two actions involve different property, transactions, and events. The cases
 11 involve different property; that is, user data from different users and from different companies.
 12 *Favor* was brought by a *Favor* user against *Favor*, Meta, FullStory, and Tiktok, alleging that
 13 *Favor* disclosed user data to Meta, Fullstory, and TikTok without the consent of *Favor* users. In
 14 contrast, *GoodRx* was brought by a *GoodRx* user against *GoodRx*, Meta, Google, and Criteo,
 15 alleging that *GoodRx* disclosed user data to Meta, Google, and Criteo without the consent of
 16 *GoodRx* users. Not only are the users in each case different, the user data allegedly disclosed is
 17 different as well. *See, e.g., Hynix Semiconductor Inc. v. Rambus Inc.*, 2008 WL 3916304, at *2
 18 (N.D. Cal. Aug. 24, 2008) (denying motion to relate because the cases concerned substantially
 19 different patents and products).

20 *Third*, the cases involve different technology: Plaintiff in *GoodRx* does not (and could
 21 not) allege that Google receives, processes, maintains and uses data from *GoodRx* in the same
 22 way that Meta and Criteo do; Plaintiff in *GoodRx* also obviously does not allege anything
 23 suggesting Google employs the same technology as FullStory or Tiktok. Because the analytics
 24 providers other than Meta do not overlap, there will be little efficiency gained by relating the
 25 two cases. *See Adobe Sys. Inc.*, 2016 WL 9105173, at *3 (declining to relate cases in which
 26 “different software products are at issue in each case.”); *Hynix Semiconductor Inc.*, 2008 WL
 27 3916304, at *2 (denying motion to relate because the cases would “require an understanding of
 28

a different, albeit related, technology.”). Unlike *Pepper v. Apple Inc.*, where the related cases were brought against only *one* defendant—Apple, Inc. —and concerned only Apple Inc.’s technology, these cases involve five different analytics defendants and at least five different technologies. 2019 WL 4783951, at *1 (N.D. Cal. Aug. 22, 2019).

Finally, *GoodRx* and *Favor* involve different disclosures about the sharing of user data. *Favor* and *GoodRx* necessarily have differing privacy policies with different disclosures to their users, and each analytics provider has different agreements with its customers (i.e., *GoodRx* or *Favor*) about the use of the customer’s user data.

B. Keeping *GoodRx* and *Favor* Separate Would Not Result in Duplication of Labor, Expense, or Conflicting Results

Keeping *GoodRx* and *Favor* separate would not cause a duplication of labor, expense, or conflicting results because they involve different parties, data, and technology. *See* L.R. 3-12(a)(2).

IV. CONCLUSION

The Court should deny Meta’s administrative motion to relate *GoodRx* to this action.

Respectfully submitted,

WILLKIE FARR & GALLAGHER LLP

Dated: February 21, 2023

By: /s/ Benedict Y. Hur

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CERTIFICATE OF SERVICE

I, Marsi Allard, hereby certify that on February 21, 2023, I electronically filed the foregoing with the Clerk of the United States District Court for the Northern District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

Pursuant to Civil Local Rule 3-12, I further caused true and correct copies of the foregoing to be served via email on counsel for the parties in *Jane Doe v. GoodRx Holdings, Inc. et al.*, No. 3:23-cv-00501-LB:

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I declare under penalty of perjury that the foregoing is true and correct.

/s/ Marsi Allard
Marsi Allard